

## **REMARKS**

This application has been reviewed in light of the non-final Office Action mailed on December 6, 2010. Claims 1-20 are pending in the application with Claims 1, 15, and 19 being in independent form. By the present Amendment, Claims 1, 15, and 19 have been amended for clarification purposes. No new matter has been added.

Claims 1-20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al. (U.S. Application No. 2002/0003798) in view of Varma (U.S. Patent No. 7,388,919).

Claim 1, as amended herein, recites, *inter alia*, as follows:

“...wherein the data packets falling into one quality range **directly influence concurrent or subsequent retransmission decisions** regarding the data packets falling into another quality range.” (Emphasis added.)

At pages 5-6 of the present Office Action, the Examiner stated that Sato is silent in regards to “the subsequent transmitter behaviour includes adjusting at least one transmitter parameter of the first station such that the at least one transmitter parameter corresponding to the at least two non-contiguous ones of the quality ranges is identical.” The Examiner relied on Varma to cure the deficiencies of Sato. However, neither Sato nor Varma, taken alone or in any proper combination, teach and/or suggest at least the feature added to independent Claim 1.

The applied combination of Sato and Varma fails to disclose and/or suggest at least “...wherein the data packets falling into one quality range directly influence concurrent or subsequent retransmission decisions regarding the data packets falling into another quality range,” as recited in amended independent Claim 1.

As best understood, Varma relates to a system that adapts wireless link parameters for a wireless communication link. A measure is determined of errors occurring in communication over a wireless link. In a case that the measure of errors corresponds to more errors than a first

predetermined threshold, communication changes from a first set of wireless link parameters to a second set of wireless link parameters. The second set of wireless link parameters corresponds to higher error tolerance than the first set of wireless link parameters. In a case that the measure of errors corresponds to fewer errors than a second predetermined threshold, communication changes from the first set of wireless link parameters to a third set of wireless link parameters. (Abstract).

In contrast, in the present disclosure, and specifically at paragraph [0035] of Applicants' published application (2008/0232291), it is stated that:

“Depending on the types of acknowledgements received, indicating how good or bad reception is, the Node B or base station BS may take the decision whether to perform retransmissions (or not) in accordance with a number of options. Firstly, always retransmit once, or a predetermined number of times, when receiving NACK 1, possibly preventing NACK 2 mobile stations from sending their feedback, so as to release uplink resources. Secondly, only retransmit when NACK 2 messages are received.” (Emphasis added.)

In other words, the data packets falling into one quality range (NACK1) directly influence concurrent or subsequent retransmission decisions regarding the data packets falling into another quality range (NACK2). For example, if the data packets fall into the NACK1 category, then data packets falling into the NACK2 category would be prevented from being transmitted in order to, for instance, release uplink resources.

In contrast, in Varma, at Column 5, line 49 to Column 6, line 14, as indicated by the Examiner at the bottom of page 6 of the present Office Action, it is stated, in pertinent parts:

“In more detail, a measure or measures are determined in step S 401 of errors occurring in communication over a wireless link. This measure can be generated by a receiving device, a sending device, or both. In step S 402, **this measure is compared to thresholds**. If the measure indicates that more errors than a first threshold have occurred, then flow proceeds to step S 403. If the measure indicates that less errors than a second threshold have occurred, then flow proceeds to step S 404. Otherwise, flow returns to step S 401.

The first threshold in step S 402 preferably is a predetermined threshold corresponding to **where the relationship for a first set of wireless link parameters intersects the relationship for a second set of wireless link parameters**. Likewise, the second threshold in step S 402 preferably is a predetermined threshold corresponding to where the relationship for the first set of wireless link parameters intersects the relationship for a third set of wireless link parameters.

In step S 403, wireless link parameters are changed from the first set of wireless link parameters to the second set of wireless link parameters. According to the invention, the second set of wireless link parameters corresponds to higher error tolerance than the first set of wireless link parameters.

In step S 404, wireless link parameters are changed from the first set of wireless link parameters to the third set of wireless link parameters. According to the invention, the third set of wireless link parameters corresponds to lower error tolerance than the first set of wireless link parameters.

By virtue of the foregoing operation, **wireless link parameters are dynamically adapted to a preferred set of wireless link parameters for a given measure of errors.**" (Emphasis added)

In other words, Applicants agree that there are different error tolerance ranges. Each range is set apart from the other via a threshold (e.g., first, second, and third thresholds). Communication having a first set of wireless link parameters switches to communication having a second set of wireless link parameters based on the number of errors in the communication. However, the Claims of the present disclosure clearly differentiate from such communication structure. The present Claims state that data packets falling into one quality range (NACK1) directly influence concurrent or subsequent retransmission decisions regarding the data packets falling into another quality range (NACK2). Thus, a relationship is established between retransmission decisions of one range relative to another range.

Varma does not disclose such feature. Varma states, for example, that the second threshold is a predetermined threshold corresponding to where the relationship for the first set of wireless link parameters intersects the relationship for a third set of wireless link parameters.

Varma basically states that the relationship is the intersection (or the threshold). In the present Claims, the relationship is the retransmission decisions between the ranges, not the intersection points.

Thus, the applied combination of Sato and Varma, taken alone or in any proper combination, does not disclose all the features recited by independent Claim 1. Therefore, the withdrawal of the rejection under 35 U.S.C. §103(a) with respect to Claim 1 and allowance thereof is respectfully requested.

Independent Claims 15 and 19 include similar limitations to those of Claim 1, and are allowable over the prior art of record for at least the same reasons presented above for the patentability of independent Claim 1. Accordingly, withdrawal of the rejection under 35 U.S.C. §103(a) with respect to Claims 15 and 19 and allowance thereof is respectfully requested.

Dependent Claims 2-14, 16-18, and 20, are allowable over the prior art of record for at least the same reasons presented above for the patentability of independent Claims 1, 15, and 19. Further, dependent Claims 2-14, 16-18, and 20 recite additional patentable features. Accordingly, the withdrawal of the rejection under 35 U.S.C. §103(a) with respect to dependent Claims 2-14, 16-18, and 20, and allowance thereof are respectfully requested.

In view of the foregoing, it is respectfully submitted that all the claims pending in this patent application are in condition for allowance. Reconsideration and allowance of all the claims are respectfully solicited.

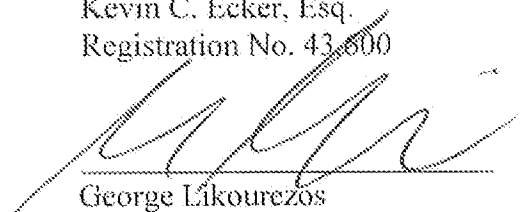
If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner contact the applicant's attorney, so that a mutually convenient date and time for a telephonic interview may be scheduled for resolving such issues as expeditiously as possible.

In the event there are any errors with respect to the fees for this response or any other papers related to this response, the Director is hereby given permission to charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account No. 14-1270.

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